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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking
Regarding Emergency Disaster Relief
Program.

Rulemaking 18-03-011

**DECISION ADOPTING AN EMERGENCY DISASTER RELIEF PROGRAM FOR
COMMUNICATIONS SERVICE PROVIDER CUSTOMERS**

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DECISION ADOPTING AN EMERGENCY DISASTER RELIEF PROGRAM FOR COMMUNICATIONS SERVICE PROVIDER CUSTOMERS

Summary

This Decision adopts an emergency disaster relief program for customers of communications service providers (emergency disaster relief program). This emergency disaster relief program is designed to ensure that communications service provider customers who experience a housing or financial crisis due to a disaster keep vital services and receive support in the wake of a disaster.

Communications service providers shall implement the emergency disaster relief program upon a declared state of emergency by the governor of California or the president of the United States when a disaster has either resulted in the loss or disruption of the delivery or receipt of utility service, or resulted in the degradation of the quality of utility service. The mandated customer protections shall become effective on the date such declaration of emergency is made and shall conclude no sooner than twelve (12) months from the date of the original emergency proclamation, or as appropriately determined by the Governor's Office of Emergency Services. Communications service providers are encouraged to do more to support customers and thus, are not barred from implementing additional assistance programs of their own to augment the protections these rules provide.

Nothing in this proceeding changes any of the notice, communication, outreach or other requirements of the Commission's ongoing Wildfire Mitigation Plan and de-energization proceedings or any decisions issued in Rulemakings (R.) 18-10-007 and R.18-12-005.

This proceeding remains open to consider additional issues raised by communications service providers and stakeholders.

1. Background

The California Public Utilities Commission (Commission) established Rulemaking (R.) 18-03-011 to adopt an emergency disaster relief program for entities under this Commission's jurisdiction. This proceeding is predicated upon Resolutions M-4833 and M-4835. Those Resolutions required the electric, gas, communications service providers, and water utilities to take reasonable and necessary steps to help Californians affected by a series of devastating wildfires across California.

The customer protections established in Resolutions M-4833 and M-4835 created specific, mandated protections for the customers of our regulated electric, natural gas, water and sewer, and communications service providers who suffer injury or damage from disasters. The Resolutions enumerated several communications service provider customer protections in addition to those provided through the LifeLine program.¹

The protections adopted in Resolutions M-4833 and M-4835 were designed to ensure that Californians who experienced housing or financial crises due to disaster did not lose access to vital communications services. However, those

¹ Resolution M-4833 at 10-16.

protections were narrower than what we are considering here and were limited to those specific incidents identified in the resolutions.

Experience shows us that using the resolution process for each disaster is not responsive or timely enough given the unexpected occurrence and critical nature of such disasters. As a result of this Rulemaking, we established interim measures in Decision (D.) 18-08-004, which affirmed the provisions of Resolutions M-4833 and M-4835 as temporary disaster relief protection measures for customers until this proceeding developed a permanent emergency disaster relief program.

In D.18-08-004, protection measures required of communications service providers (*e.g.*, telephone corporations) were divided into three categories: (1) landline providers (*e.g.*, 9-1-1/E9-1-1 providers, LifeLine Providers, Facilities-based providers of Voice-over-Internet or [VoIP], Carriers of Last Resort or COLRs); (2) wireless providers (*e.g.*, those not residentially based that provide access to E9-1-1 and LifeLine services); and (3) non-facilities based LifeLine providers.

However, for the purposes of this decision, we will define the categories as follows: (1) facilities-based and non-facilities based landline providers include 9-1-1/E9-1-1 providers, LifeLine providers, providers of Voice-Over-Internet Protocol [VoIP], Carriers of Last Resort [COLRs], and other landline providers that do not fall into the aforementioned groups); (2) wireless providers include those that provide access to E9-1-1 and/or LifeLine services), (2A) facilities-based wireless providers, and (2B) non-facilities-based wireless providers, include resellers and mobile virtual network operators [MVNOs].).

These customer protections shall apply to both residential and small business customers. The definition of residential and small business customers

shall be the same definition the Commission has adopted in General Order (GO) 133-D: a customer is a separate account number for voice service, or bundle of services, including voice, and includes small business (5 lines or less) and residential customers.²

California LifeLine rules and guidance for all categories of providers will be provided in a subsequent decision.

D.18-08-004 established the following requirements applicable to landline providers:³ (1) waiver of one-time activation fee for establishing remote call forwarding, remote access to call forwarding, call forwarding features and messaging services; (2) waiver of the monthly rate for one month for remote call forwarding, remote access to call forwarding, call forwarding, call forwarding features, and messaging services; (3) waiver of the service charge for installation of service at the temporary location of the customer again when the customer moves back to the premises, or new permanent location of the customer and again when the customer moves back to the premises; (4) waiver of the fee for one jack and associated wiring at the temporary location regardless of whether the customer has an inside wiring plan; (5) waiver of the fee for up to five free jacks and associated wiring for inside wiring plan customer upon their return to their permanent location; (6) waiver of the fee for one jack and associated wiring for non-Plan customers upon their return to their permanent location; (7) delay of the California LifeLine Renewal Process and suspension of the de-enrollment for non-usage rules; and (8) implementation of the outreach methods set forth in Resolution M-4835. This Decision makes the

² GO 133-D, Section 1.3 (Definitions), (g).

³ D.18-08-004 at 8.

above-mentioned eight requirements also applicable to providers of VoIP service, although items seven and eight remain as interim protections.

D.18-08-004 established the following requirements applicable to wireless providers:⁴ (1) the deployment of mobile equipment, including Cells on Wheels and Cells on Light Trucks, to supplement service in areas that need additional capacity to ensure access to 9-1-1/E9-1-1 service; (2) the provision of device charging stations in areas where impacted wireless customers seek refuge from fires; (3) the provision of WiFi access in areas where impacted wireless customers seek refuge from fires; and (4) the provision of “loaner” mobile phones to impacted customers whose mobile phones are not accessible due to the emergency.⁵ In addition, the Commission urges wireless carriers to allow customers to defer or phase payment for coverage charges for data, talk, and text for defined periods of time; and to extend payment dates for service for defined periods of time for impacted customers.

This Decision will make the first three requirements in this paragraph applicable to all facilities-based wireless providers (category 2A) and the provisions of 4-8 applicable to both facilities-based wireless providers (category 2A) and resellers and non-facilities-based wireless providers (category 2B).

In summary, we establish a permanent emergency disaster relief program that the specified telephone corporations are mandated to implement for their customers in the event of a presidential or gubernatorial declared emergency

⁴ D.18-08-004 at 9-10.

⁵ We note that Cells on Wheels (COWs) and Cells on Light Trucks (COLTs) are, by definition, temporary facilities. By requiring wireless providers to locate these temporary facilities in disaster areas, we are not compelling providers to offer service in areas they do not presently serve. Rather, this equipment is intended to provide additional support for existing service, or to re-establish service disrupted by an emergency or natural disaster.

where service is disrupted or degraded because of the disaster(s). A permanent disaster relief program ensures predictability and consistency and will direct carriers to establish the systems and procedures necessary to provide swift and substantive assistance to affected customers.⁶

1.1. California's 2017 Wildfire Season

Autumn 2017 will be remembered for the terrible wildfires that devastated numerous communities in Northern and Southern California.

On October 8, 2017, multiple fires broke out throughout Northern California. In less than 24 hours, more than 18 fires began burning in at least seven counties across the state. By the time the fires were contained two weeks later, more than 200,000 acres of land were devastated, property damaged, and dozens of lives were lost. The fires damaged utility infrastructure providing electricity, communications, water, and gas service to tens of thousands of Californians.

On October 9 and 10, 2017, Governor Brown declared states of emergency in the Counties of Butte, Lake, Mendocino, Napa, Nevada, Orange, Solano, Sonoma, and Yuba.⁷

On October 9, 2017, the Canyon Fire began burning in Southern California, resulting in additional evacuations and damage to utility infrastructure.

⁶ We note that several applications for rehearing and a Petition for Modification of D.18-08-004 are pending before us. Today's decision does not resolve nor is intended to prejudge the disposition of these rehearing applications or the petition. These will be disposed of in a subsequent Commission decision.

⁷ The Governor's Proclamations are available at:
<https://www.gov.ca.gov/aneews.php?id=2-2017-October>.

1.2. California's 2018 Wildfire Season

California experienced a record-breaking fire season in 2018. More than 8,000 fires burned close to 2,000,000 acres throughout the state,⁸ and these devastating fires resulted in billions of dollars in damage and numerous lives lost.

In Northern California, the Mendocino Complex Fire grew to more than 300,000 acres. The Carr Fire, near Mount Shasta, wreaked havoc on Shasta County and the town of Redding. The 175,000-acre Carr Fire prompted nearly 40,000 evacuations and burned more than 1,000 homes to become the sixth most destructive fire in the State's history. The Ferguson Fire near Yosemite National Park became the largest fire in Sierra National Forest history.

In Southern California, the Holy Fire grew over thousands of acres and prompted more than 20,000 evacuations and threatened more than 7,000 homes. The fire spilled over the Orange County line into Riverside County. At least a dozen structures were damaged because of the Holy Fire.

In Fall 2018, the Camp Fire of Northern California burned more than 150,000 acres and leveled entire towns. It destroyed over 18,000 structures – including homes, churches, and stores – and took the lives of more than 85 people. CalFIRE reported that at least 13,503 residences, 514 businesses, and 4,404 barns, sheds, and other buildings burned in the Camp Fire. Simultaneously, the Woolsey Fire in Southern California broke out between Los Angeles and Ventura counties. The Woolsey Fire burned almost 100,000 acres damaging countless structures, homes, lands and parks across much of Southern California.

⁸ https://www.predictiveservices.nifc.gov/intelligence/2018_statsumm/fires_acres18.pdf.

1.3. Stakeholder Participation

This proceeding involved extensive stakeholder participation and multiple, all-party public workshops (Workshops) that the Commission hosted in partnership with the Governor’s Office of Emergency Services (CalOES). Stakeholder and public discussion focused on the implementation of the customer protections adopted in Resolutions M-4833 and M-4835; the communications service providers’ emergency response and coordinated emergency response between industry and local, state, and federal first responders; as well as a reflection on insights and lessons learned from recent wildfires.

2. Jurisdiction

The Commission has broad jurisdiction over “public utilities”⁹ and “telephone corporations.”¹⁰ A “public utility” includes every “telephone corporation” where service is performed, or a commodity is delivered to the public or any portion thereof.¹¹ A “telephone corporation” includes “every corporation or person owning, controlling, operating, or managing any telephone line for compensation in this state.”¹² A “telephone line” includes “all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, or controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission

⁹ Pub. Util. Code § 216.

¹⁰ Pub. Util. Code § 234.

¹¹ Pub. Util. Code § 216.

¹² Pub. Util. Code § 234.

wires.”¹³ It follows then, that the means by which a telephone corporation provides service – analog, wireless technology or Internet protocol (IP) technology – does not affect whether the provider is a public utility telephone corporation.

The Commission’s authority over public utilities includes oversight over public utility practices and facilities.¹⁴ The Commission is required to ensure that utilities, including telephone corporations, “furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”¹⁵ The Commission also has an ongoing responsibility to ensure the reasonableness and sufficiency of utility facilities¹⁶ and may order “additions, extensions, repairs, or improvements to, or changes in” utility facilities that the Commission finds “ought reasonably to be made.”¹⁷

In addition, the Commission has exclusive authority to grant “certificates” (*i.e.*, a certificate of public convenience and necessity [“CPCN”]) to a public utility seeking to operate in California.¹⁸ A CPCN confers upon a public utility numerous benefits simultaneously with the aforementioned obligations, among others, that the Public Utilities Code and CPUC mandate. For instance, public utility telephone corporations have the right to interconnect with other service

¹³ Pub. Util. Code § 233.

¹⁴ See Cal. Const., art. XII, §§ 1-6; Pub. Util. Code, § 701.

¹⁵ Pub. Util. Code § 451.

¹⁶ Pub. Util. Code § 761.

¹⁷ Pub. Util. Code § 762.

¹⁸ See Pub. Util. Code § 1001.

providers and the ability to access the public rights-of-way to build or install facilities to provide their services.¹⁹

In the last 30 years, both federal and state laws have imposed limits on the Commission's authority over certain communications services, such as wireless service as well as Voice over Internet Protocol (VoIP) and IP-enabled services, provided by telephone corporations. While wireless service remains subject to state regulation, the federal Communications Act, 47 U.S.C.S § 332, subdivision (c)(3)(A), prohibits states from regulating "the entry of or the rates charged by any commercial mobile service or any private mobile service."²⁰ Importantly, the federal statute expressly preserves state jurisdiction over all other matters not falling within the categories of rate or entry regulation, including the "other terms and conditions" of wireless service.²¹

The Communications Act does not define the terms "entry" or "other terms and conditions," but the legislative history shows that consumer protection matters fall within "terms and conditions:"

Section 332(c)(3) provides that state or local governments cannot impose rate or entry regulation on private land mobile service or commercial mobile services; this paragraph further stipulates that nothing here shall preclude a state from regulating the other terms and conditions of commercial mobile services. It is the intent of the Committee that the states still would be able to regulate the terms and conditions of these services. *By "terms and conditions," the Committee intends to include such [] matters as customer billing information*

¹⁹ See e.g., Pub. Util. Code § 7901.

²⁰ 47 U.S.C.S. § 332, subd. (c)(3)A.

²¹ 47 U.S.C.S. § 332, subd. (c)(3)A. ["...except that this paragraph shall not prohibit a State from regulating the other terms and conditions of commercial mobile services."].

*and practices and billing disputes and other consumer protection matters; facilities citing issues (e.g. zoning); transfers of control; the bundling of services and equipment; and the requirement that carriers make capacity available on a wholesale basis or such other matters as fall within a state's lawful authority. [] This list is intended to be illustrative only and not meant to preclude other matters generally understood to fall under "terms and conditions."*²²

Accordingly, the Commission continues to retain broad authority over wireless service.

With regard to VoIP and other IP-enabled services, however, Section 710, enacted in 2015, placed more restrictions on the Commission's regulatory authority over VoIP and other IP-enabled services. Section 710 states that the Commission "shall not exercise regulatory jurisdiction or control" over VoIP and IP-enabled services, except as required or delegated by federal law, expressly provided in statute, or as provided in Section 710. The statute contains numerous exceptions preserving the Commission authority over some aspects of VoIP and IP-enabled services.²³

First, VoIP providers clearly fit within the plain language of the definition of a public utility "telephone corporation," as discussed above. In addition, both before and after Section 710 was enacted, the Commission routinely granted applications for CPCNs requested by VoIP providers, if the provider was

²² H.R. Rep. No. 103-111, 103d Con. 1st Sess (1993), reprinted in 1993 U.S.C.C.A.N. 378, 588, emphasis added.

²³ The Commission has addressed some of these exceptions in several decisions, including but not limited to the following: D.16-08-021 [requires VoIP providers to provide the Commission with copies of Federal Communications Commission Network Outage Reports pursuant to Section 710(f) exception and the Commission's independent, broad authority to obtain information from public utilities and non-regulated entities].

otherwise eligible for a CPCN.²⁴ The Commission only has the authority grant a CPCN if the provider is a public utility telephone corporation. (*See, e.g.,* Pub. Util. Code § 1001.)²⁵

Further, Section 710's exceptions themselves demonstrate that the Commission retains some authority over VoIP providers as public utility telephone corporations. The Commission would only have authority over, for example, interconnection and intercarrier compensation (exceptions § 710(c)(3) & (c)(5)) if VoIP providers are public utility telephone corporations. From the standpoint of a customer, VoIP and traditional landline service are essentially the same. And such VoIP services are becoming more and more prevalent.

Second, the use of the word "services" in Section 710 was intentional.²⁶ As the Commission noted in its Service Quality proceeding, "Section 710 only prohibits the regulation of VoIP 'services'." There we explained that:

Pursuant to the plain language and the legislative history of the statute, Section 710 is not a blanket prohibition on the regulation of facilities over which VoIP services are transported. Section 710 contains certain exceptions relating to facilities (e.g., the Commission's authority to enforce existing requirements regarding backup power (§ 710 (c)(6)) and the Commission's authority regarding access to support structures, including pole attachments, or to the construction and maintenance of facilities pursuant to

²⁴ VoIP providers seek a CPCN from the CPUC to interconnect with other service providers and to gain access to the public rights-of-way, both of which require authority from the CPUC. By issuing the CPCN, the CPUC acknowledges that the VoIP provider meets the definition of a "telephone corporation" embodied in Public Utilities Code section 234, and thus is bound by CPUC rules governing telephone corporations.

²⁵ We discuss our authority as it applies to each category of carrier below.

²⁶ SB 1161 originally applied to VoIP "providers," but was amended to bar regulation of VoIP service.

GOs 95 and 128 (§ 710 (c)(7)). Regardless of what services are being transported, the telecommunications network is interconnected. We do not believe that the Legislature intended to bar the Commission from ensuring a safe and reliable telecommunications network by allowing facilities that provide VoIP services to go unmonitored.²⁷

Thus, to the extent some requirements, such as service quality, may apply to facilities or providers, and not specifically to VoIP *services*, they are allowed under Section 710.

Third, VoIP providers are required to offer 9-1-1 services under both state and federal law. 9-1-1 service is a component of basic service as the CPUC has defined it for over 25 years, and as such, providers are required to maintain 9-1-1 tariffs on file tariffs with the CPUC. (See D.12-12-038 [decision adopting revisions to “basic service” definition] at pp. 22-23.); Pub. Util. Code § 495.7(b) [“The commission may, by rule or order, partially or completely exempt certain telecommunications services, *except basic exchange service offered by telephone or telegraph corporations*, from the tariffing requirements of Sections 454, 489, 491, and 495.” (Emphasis added.)] The Commission’s oversight of 9-1-1 service is contained in several sections of the Public Utilities Code: Section 742 (9-1-1 for public telephones); Section 2883 (9-1-1 service and “warm lines”); Section 2889.6 (information to customers regarding 9-1-1); and Section 2892 (requiring wireless carriers to provide access to 9-1-1 service).

Section 710 expressly states that its prohibition of VoIP regulation does not apply to 9-1-1 emergency services. Section 710 (c)(8) states: “This section does not affect or supersede” the “Warren-9-1-1-Emergency

²⁷ D.16-08-021 at 26.

Assistance Act,” (Gov. Code § 53100 et seq.). The Warren-9-1-1-Emergency Assistance Act established “9-1-1” as the primary emergency telephone number for use in California.²⁸ This Act addresses the roles of local public agencies, the Public Safety Communication Division, within the Office of Emergency Services (CalOES), and the Attorney General. While the Commission recognizes the primary role of the Office of Emergency Services (CalOES) to implement the 9-1-1 system; as the agency with primary jurisdiction over telephone corporations, the Commission, would have the authority to enforce/implement requirements that support 9-1-1 service.

Further, the Commission also retains authority to regulate 9-1-1/E9-1-1 services regardless of what technology is used to provide the service. The customer protection rules adopted in this decision relate to the provision of basic service, 9-1-1 service, and access to the network in the event of an emergency. As such, we do not believe that adopting and enforcing these protections are prohibited by Section 710.

We discuss our authority as it applies to each category of telephone corporation below against this jurisdictional backdrop.

3. Issues Before the Commission

Parties filed comments in response to the Scoping Memo issued on July 13, 2018. As set forth in the Scoping Memo, the issues to be addressed for communications service providers are:

- a. Emergency Proclamation:** Whether post-disaster emergency customer protections should automatically

²⁸ Gov. Code, §§ 53100, 53111.

- apply to residential and small business customers when the Governor of California issues a formal state of emergency proclamation. If yes, should the emergency customer protections apply if: (1) the disaster results in the loss, disruption of the delivery, or receipt of, service to the customer; and/or (2) the disaster results in the degradation of the quality of service to the customer?
- b. Period of Implementation:** Shall the emergency customer protections commence upon a state of emergency and conclude no sooner than twelve (12) months from the date of commencement or as appropriately determined by CalOES?
 - c. Compliance:** Shall the Commission require the providers to file an advice letter demonstrating compliance with the activation of customer protections, or should another method be used to demonstrate compliance?
 - d. Emergency Customer Protections:** Should the Commission adopt the customer protections from Resolutions M-4833 and M-4835, with or without modifications? What modifications, if any, should be made?
 - e. Coordination with local, state, and federal agencies:** Should the Commission require the providers to provide information to other government entities at an aggregated level that cannot be used to identify a specific customer, to give assistance to only those affected by a disaster?
 - f. Public Awareness of Customer Protections:** Should the Commission direct the providers to develop proposals to maximize customer awareness regarding the availability of these disaster relief customer protections in specific emergency and disaster situations? Should customer awareness proposals, if required, be implemented via an advice letter, or through some other method?

Parties who participated in the communications carrier portions of this proceeding and filed comments include: (1) Calaveras Telephone Company,

Cal-Ore Telephone Company, Ducor Telephone Company, Foresthill Telephone Company, Happy Valley Telephone Company, Hornitos Telephone Company, Kerman Telephone Company, Pinnacles Telephone Company, The Siskiyou Telephone Company, Volcano Telephone Company, and Winterhaven Telephone Company (Small LECs); (2) Consolidated Communications of California Company (Consolidated); (3) AT&T;²⁹ (4) The Utility Reform Network, Center for Accessible Technology and National Consumer Law Center (Joint Consumers); (5) CTIA; (6) The Utility Consumers' Action Network (UCAN); (7) Citizens Telecommunications Company of California, Inc., Frontier Communications of the Southwest, Inc., and Frontier California, Inc., (Frontier); (8) MCImetro Access Transmission Services (MCImetro); (9) California Association of Competitive Telecommunications Companies (CALTEL); (10) Public Advocates Office; (11) Cox California Telcom, L.L.C., (Cox); (11) California Cable and Telecommunications Association (CCTA); (12) TracFone Wireless, Inc., (TracFone); (13) Cellco Partnership (Verizon Wireless); (14) Sprint Communications Company L.P., Sprint Spectrum L.P., and Virgin Mobile USA, L.P. (Sprint); and (15) The National LifeLine Association (NaLA).

4. Discussion and Analysis

This decision establishes a state-wide approach to provide customers with essential communications service functions in the face of a range of potential threats and emergencies. Continuity of services and sustaining essential

²⁹ Pacific Bell Telephone Company d/b/a AT&T California (U 1001 C) and its affiliates AT&T Corp. (U 5002 C); Teleport Communications America, LLC (U 5454 C); and AT&T Mobility LLC (NewCingular Wireless PCS, LLC (U 3060 C); AT&T Mobility Wireless Operations Holdings, Inc. (U 3021 C); and Santa Barbara Cellular Systems, Ltd. (U 3015 C)) are collectively referred to hereinafter as "AT&T."

functions are shared responsibilities of the Commission, its counterparts across State government, and entities the Commission regulates. It is critical to sustain and restore essential communication functions and deliver critical services under disastrous conditions. This decision includes actions necessary to help meet basic customer needs after a catastrophic incident has occurred.

Our emergency disaster relief program helps ensure that the State can effectively respond to disasters that affect service, including those with cascading effects. This response will help stabilize communities in the wake of a disaster that affects utility customers, ensure the restoration of basic services, assist with restoring community functionality, and support access to resources that facilitate recovery.

4.1. Action Taken When Disaster Strikes

The State of California has a responsibility to protect the health and safety, and to preserve the lives and property of the people of California.

The California governor has the power to proclaim the existence of a disaster or extreme peril to the safety of persons and property within the state. These disasters are often caused by conditions such as air pollution, fire, flood, storm, sudden and severe energy shortage, earthquake, volcanic eruption, or other similar conditions. By reason of their magnitude, these conditions are or are likely to be beyond the capabilities of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of the government to provide relief. For our part, the Commission has a responsibility to ensure that public utilities provide safe and reliable service, which includes mitigating the effects of a natural or man-made emergency that result from the degradation or disruption of utility service in times of disaster.

In the scoping memo, we asked parties whether certain post-disaster emergency protections should be in place and apply for customers of communications service providers in a given area when the governor of California issues a formal state of emergency declaration covering that area. We also asked parties if the trigger for the activation of the emergency customer protections should be: (1) the disaster has resulted in the loss, disruption of the delivery, or receipt of, utility service to the customer; and/or (2) the disaster results in the degradation of the quality of utility service to the customer.

Additionally, in the rulings of the Assigned Administrative Law Judge, parties were asked whether the period over which to apply emergency customer protections should commence upon the issuance of the emergency declaration and conclude no sooner than twelve (12) months from the date of commencement or as appropriately determined by the Governor's Office.

4.1.1. Position of Parties

Joint Consumers believe that "disruption" should mean a loss of dial tone, no connection, or otherwise non-functioning service.³⁰ Joint Consumers propose that degraded service should include situations where service is not completely out, but callers still encounter poor service quality, including, but not limited to, static, failure to connect, fast busy signal, and/or dropped calls.³¹ Joint Consumers believe that state-level emergency declarations made by the governor of California as well as federal and local emergency declarations should trigger the emergency disaster relief program.³² In addition, Joint Consumers propose a

³⁰ Joint Consumers Comments on Assigned Commissioner and Administrative Law Judge's Ruling Noticing Workshops and Ordering Workshop Statements at 2.

³¹ *Id.* at 2.

³² *Id.* at 5.

24-hour threshold for service disruption or degradation as a trigger for certain customer protections (*i.e.*, waiver of fees for call forwarding), while other customer protections may need to be deployed less than 24 hours after loss of service (*i.e.*, deployment of Cells on Wheels and Cells on Light Trucks).³³

CCTA argues that an emergency declaration –made either by the governor of California or a federal emergency declaration – should not mandate a “one-size-fits-all” approach to customer protection measures. Rather, CCTA argues that the Commission should recognize that providers need “flexibility to tailor their response to each unique disaster.”³⁴ Further, CCTA argues that a “disruption” of voice service should mean that a customer cannot make or receive a voice call because the disaster has rendered the service nonfunctional and the customer is unable to make a 9-1-1 call.³⁵ CCTA asserts that “degradation” of voice service means that voice service, while not necessarily completely nonfunctional, is so affected by the given disaster event that a customer cannot routinely make and/or receive voice calls.³⁶ CCTA argues the Commission should not adopt a single rule with a single timeframe and should instead, adopt a “flexible approach” that can be tailored to the specifics of each disaster, customer needs, and utility services at issue.³⁷

³³ *Id.* at 3-5.

³⁴ CCTA Comments on Assigned Commissioner and Administrative Law Judge’s Ruling Noticing Workshops and Ordering Workshop Statements at 6.

³⁵ CCTA Preliminary Workshop Comments at 5-6.

³⁶ *Id.*

³⁷ *Id.* at 7.

Frontier argues that the Commission should leave it to each provider to assess impact to services.³⁸ Additionally, Frontier argues that the Commission should define “disruption of the delivery or receipt of utility service” as when a customer has lost a basic dial tone due to the declared disaster event.³⁹ Frontier asserts that the Commission should interpret and define the “degradation and quality of utility service” as when the quality of the basic dial tone is such that calls cannot be completed due to the declared disaster event.⁴⁰

Consolidated and the Small LECs assert that the communications providers themselves are in the best position to determine when a disaster has caused sufficiently material disruption or degradation to trigger the disaster relief programs identified in our interim decision, D.18-08-004.⁴¹ Consolidated also argues that not all emergencies are the same, regardless of who issues the declaration of emergency, and any rule providing for emergency customer protections should direct relief only where it is warranted.⁴²

AT&T asserts that the Commission should not require communications providers to offer customer assistance after a governor-declared state of emergency and argues that communications providers are “best able to determine the extent of any ‘disruption’ or ‘degradation’ of service.”⁴³ However,

³⁸ Frontier Comments on Assigned Commissioner and Administrative Law Judge’s Ruling Noticing Workshops and Ordering Workshop Statements at 2.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Consolidated Comments on Assigned Commissioner and Administrative Law Judge’s Ruling Noticing Workshops and Ordering Workshop Statements at 2-3; Small LECs Comments on Assigned Commissioner and Administrative Law Judge’s Ruling Noticing Workshops and Ordering Workshop Statements at 3.

⁴² *Id.* at 3.

⁴³ AT&T Preliminary Workshop Comments at 2.

AT&T asserts that a “disruption” or “degradation” of service means a call cannot be placed or received. AT&T asserts that customer relief cannot be given when a disaster causes a single customer for single day to be out of service.⁴⁴

Cox argues that a “one-size-fits-all” approach is not in the public interest and could ultimately limit or restrict the type of support customers would otherwise receive from their carrier of choice in a governor-declared state of emergency.⁴⁵

Cal Advocates asserts that there is a need for Commission oversight of post-emergency customer protection measures. Cal Advocates argues that the assistance and support provided to the victims of the 2017 wildfires from communications service providers were not consistently applied and were difficult to quantify. Cal Advocates also argue that, regardless of the contention by providers that they will continue to assist customers without a clear, consistent set of rules, there is a “need for customers to know what they can rely upon in the future.”⁴⁶

CTIA and Verizon Wireless⁴⁷ assert that the definition of “disruption” or “degradation” of utility service should be where there is a significant event (*e.g.*, affecting a very large number of customers for a period of time significantly longer than one day).⁴⁸ CTIA asserts that any definition of disruption or degradation of wireless services should focus on outages that are extremely

⁴⁴ *Id.* at 2-3.

⁴⁵ Reply Comments of Cox on Assigned Commissioner’s Scoping Memo at 3.

⁴⁶ Reply Comments of Cal Advocates on the Assigned Commissioner’s Scoping Memo at 2.

⁴⁷ Cellco Partnership (Verizon Wireless) Comments to Assigned Commissioner and Administrative Law Judge’s Ruling at 1-2.

⁴⁸ CTIA Workshop Comments at 4-5.

widespread and long lasting.⁴⁹ CTIA argues the Commission lacks authority to prescribe any measures or impose a duration of time for implementation of those measures.⁵⁰

Similarly, AT&T argues that the Commission should not require communications providers to offer customer assistance after a governor-declared state of emergency, even where there is loss of utility service.⁵¹

Finally, TracFone argues the Commission should not adopt the same duration of emergency customer protection measures across industries unless there is a compelling justification.⁵²

4.1.2. Discussion

Natural and manmade disasters are becoming more frequent, far-reaching, and their effects more widespread. Preserving safety and security in the wake of natural and manmade disasters is paramount. An emergency declaration by the governor of California or president of the United States is the appropriate trigger to automatically implement the emergency customer relief program. Using an emergency declaration by the governor of California or president of the United States as a trigger, will minimize confusion and set a clear precedent on how and when the emergency disaster relief program is activated. We disagree with the industry's argument that a "one-size-fits-all" approach is unnecessary, and that flexibility should be allowed during times of crises. Indeed, especially during a time of crisis, members of the public want to know that, regardless of who the

⁴⁹ *Id.*

⁵⁰ *Id.* at 6.

⁵¹ AT&T Mobility Preliminary Workshop Comments at 2.

⁵² Tracfone Wireless Comments on Assigned Commissioner and Administrative Law Judge's Ruling Noticing Workshops and Opening Workshop Statements at 2.

service provider is, they can reach First Responders. Moreover, service providers maintain the flexibility to implement additional measures to ensure public safety in times of declared emergencies. As with the Commission's requirements for the provision of basic telephone service, this customer relief program sets forth the basic requirements necessary for customers to maintain access to the communications network during declared emergencies.

To be sure, a state or federal emergency declaration signals a shared understanding of needs, capabilities, and large-scale coordinated action between the Commission, CalOES, CalFIRE, local entities and communications service providers. It establishes a greater sense of empowerment and integration of resources.

We therefore direct the communications service carriers to implement the emergency customer protections, discussed below, upon the declaration of a state of emergency by the governor, or the president of the United States, where the disaster has caused (1) a disruption of the delivery or receipt of utility service; and/or (2) the degradation of the quality of the utility service to residential and small business customers. The customer protections shall commence upon the issuance of the emergency proclamation and conclude no sooner than twelve (12) months from the date of commencement or as appropriately determined by CalOES.

We adopt the recommendations from the parties to define "disruption" as: (1) loss of dial tone; (2) no connection or otherwise non-functioning service; or (3) circumstances in which the caller cannot make or receive a voice call because the disaster has rendered the service nonfunctional and so, the caller is unable to make a 9-1-1 call. We adopt the recommendations from parties to define "degradation" as: situations caused by a disaster(s) where service being not

completely out, but callers still encounter poor service quality, including, but not limited to, static, failure to connect, a fast busy signal, and/or dropped calls, including 9-1-1 calls.

We agree with Joint Consumers that a 24-hour threshold for service disruption or degradation should be a trigger for certain customer protections (*e.g.*, waiver of fees for call forwarding) while other customer protections may need to be deployed less than 24 hours after loss of service (*e.g.*, deployment of Cells on Wheels [COWs] and Cells on Light Trucks [COLTs]).⁵³

Finally, all customers whose utility service is disrupted or degraded, within an area that is declared to be in a state of emergency by the governor or president, shall be covered by the protections we set forth here. We disagree with CTIA and AT&T that disaster relief should apply only if a disaster-induced service disruption affects a very large number of customers.⁵⁴ We decline to adopt a regulation that considers raw numbers of affected customers because such a regulation would limit the availability of disaster relief for customers living in disaster impacted areas or rural areas. We agree with Joint Consumers that, because rural customers may be more isolated and harder to reach as a result of service outages, service may be harder to restore in rural areas. In addition, rural areas often have high percentages of low-income residents. Therefore, the emergency relief measures the Commission establishes may be

⁵³ Joint Consumers on Assigned Commissioner and Administrative Law Judge's Ruling Noticing Workshops and Ordering Workshop Statements at 3-5.

⁵⁴ CTIA Preliminary Workshop Statement at p. 4; AT&T Preliminary Workshop Statement at 2-3.

even more important in helping these communities survive an emergency and rebuild following a disaster.⁵⁵

4.2. Expansion of 2-1-1 Service

2-1-1 service plays a critical role in providing information and support in times of disaster. For example, 2-1-1 service could assist residents of affected areas in accessing information about evacuation, shelter, food, and medical and recovery services, and provides public officials with feedback from callers about changing conditions.

In the Assigned Administrative Law Judge's ruling, parties were asked whether 2-1-1 providers and CalOES could work collaboratively to improve the benefits of 2-1-1 service and how any coordination or outreach efforts by communications providers of voice services could make 2-1-1 emergency service more helpful to Californians during an emergency.

4.2.1. Position of Parties

The Joint Consumers state that as part of alleviating the burdens on 9-1-1 during disasters, telecommunications providers can work with the Commission and emergency service providers to disseminate information about 2-1-1 service.⁵⁶ Joint Consumers assert that the 2-1-1 service can take calls relating to important but non-urgent concerns such as evacuations and shelters, leaving 9-1-1 for emergencies. This would reduce network congestion on the 9-1-1 network.⁵⁷

CCTA states that the Commission should "recall that 2-1-1 service is not an emergency 9-1-1 equivalent service and should not be treated as an emergency

⁵⁵ Joint Consumers on Assigned Commissioner and Administrative Law Judge's Ruling Noticing Workshops and Ordering Workshop Statements at 4.

⁵⁶ *Id.* at 6.

⁵⁷ *Id.*

service.”⁵⁸ CCTA argues that 2-1-1 calls do not share those critical 9-1-1 routing features, or related costs, and are carried over normal business lines that do not have the same reliability and restoration priority of a 9-1-1 trunk.⁵⁹ CCTA asserts that 2-1-1 service may be able to provide access to information regarding where emergency shelters are located and how to obtain post-emergency assistance.⁶⁰ CCTA believes substantial concerns would arise if 2-1-1 providers give direction regarding how and where to evacuate – potentially life and death information that requires direct guidance from emergency providers and similarly trained officials as provided through 9-1-1, reverse 9-1-1, and other services directly controlled by emergency officials.⁶¹

CTIA, AT&T and Frontier object to the inclusion of 2-1-1 service in this proceeding.⁶²

4.2.2. Discussion

We agree with comments by Joint Consumers and recommend that communications service providers work with Commission staff and state emergency services entities on educating Californians about 2-1-1 service and where such service exists. This service may be particularly valuable during an emergency because it can provide an easy and accessible way to disseminate information about disaster-specific services and developments, using a

⁵⁸ CCTA Preliminary Workshop Comments at 3.

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² CTIA Workshop Comments at 4; Frontier Comments on Assigned Commissioner and Administrative Law Judge’s Ruling Noticing Workshops and Ordering Workshop Statements at 1; AT&T Mobility Preliminary Workshop Comments at 1-2.

communication channel that is widely available and familiar. These outreach efforts to raise awareness of 2-1-1 services and their use during emergencies can include bill inserts, text alerts, and other advertising media.

We believe 2-1-1 service is an important resource for accurate disaster-relief related information, and that wider knowledge of 2-1-1 services would benefit Californians and channel non-urgent calls currently sustained by 9-1-1 away to another experienced service. Therefore, we direct the industry to work collaboratively with Commission staff and our sister government agencies on measures to instill greater awareness of 2-1-1 service.

4.3. Action Taken During Disaster

Taking action during a disaster is necessary to reduce the negative impact of that disaster. In the Scoping Memo and subsequent Assigned Administrative Law Judge rulings, parties were asked whether the Commission should adopt the customer protections from Resolutions M-4833 and M-4835 and our interim decision, D.18-08-004, with or without modification.

4.3.1. Position of Parties

CTIA argues that the Commission lacks jurisdiction to impose the disaster response measures as regulatory mandates on wireless carriers in California, arguing that most of the requirements adopted in D.18-08-004 imposed on wireless carriers are preempted by federal law.⁶³

⁶³ CTIA Workshop Comments at 7-8, citing to Application of CTIA and AT&T Application for Rehearing of D.18-08-004.

AT&T asserts that deploying customer assistance in times of disaster should be left to the people with actual knowledge of the effects of the disaster on its network and its customers and their community.⁶⁴

Frontier contends that the emergency customer protections should be given only to affected customers and should be based on how long the customer is without a basic dial tone due to the event.⁶⁵

Joint Consumers maintain that all customers should benefit from disaster relief protections and this principle should apply regardless of the size of the serving carrier.⁶⁶ Joint Consumers also urge us to adopt a timeframe for the disaster relief measures to remain in effect; they argue that the default should be that the protections are available to customers for the same length of time regardless of the industry offering the protections.⁶⁷

The Small LECs⁶⁸ and Consolidated⁶⁹ argue that all customers should have the benefit of the customer protections established in this proceeding, but exemptions from specific requirements should be given in the case of smaller

⁶⁴ AT&T Preliminary Workshop Comments at 4.

⁶⁵ Frontier Comments on Assigned Commissioner and Administrative Law Judge's Ruling Noticing Workshops and Ordering Workshop Statements at 3.

⁶⁶ Joint Consumers on Assigned Commissioner and Administrative Law Judge's Ruling Noticing Workshops and Ordering Workshop Statements at 6.

⁶⁷ *Id.* at 7.

⁶⁸ Small LECs Comments on Assigned Commissioner and Administrative Law Judge's Ruling Noticing Workshops and Ordering Workshop Statements at 4; Consolidated Comments on Assigned Commissioner and Administrative Law Judge's Ruling Noticing Workshops and Ordering Workshop Statements at 3-4.

⁶⁹ *Id.*

providers.⁷⁰ The Small LECs ask us to consider exemptions and economies of scale from specific proposals as the customer protections are established.⁷¹

CCTA⁷² and Cox⁷³ ask that we recognize the benefits of providers having flexibility to support their customers with tailored relief measures once disaster strikes.

Cal Advocates supports a minimum baseline of protections in the aftermath of a disaster.⁷⁴ Based on data requests, Cal Advocates asserts that AT&T could not document the number of customers that benefited from the assistance and protections it offered in response to Resolutions M-4833 and M-4835.⁷⁵ Cal Advocates also contends that AT&T did not supply any documentation that customer service representatives were trained and informed of the protections.⁷⁶ Similarly, Cal Advocates asserts that Frontier could not supply it with any quantification or estimates of the number of customers that received their offered protections.⁷⁷

Verizon Wireless argues that it is unnecessary to apply the directives in D.18-08-004, and by consequence, Resolutions M-4833 and M-4385, for wireless carriers.⁷⁸ Likewise, TracFone contends that wireless providers should be

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² CCTA Preliminary Workshop Comments at 7-8.

⁷³ Pre-Workshop Comments of Cox at 2.

⁷⁴ Cal Advocates Preliminary Workshop Comments at 2.

⁷⁵ *Id.*

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ Cellco Partnership (Verizon Wireless) Comments to Assigned Commissioner and Administrative Law Judge's Ruling at 2.

exempt from D.18-08-004, and by consequence, M-4833 and M-4835, and there should not be a standardized period of time to implement the customer protections unless there is a compelling justification.⁷⁹

4.3.2. Discussion

We recognize the need for disaster preparedness and disaster relief as California experiences the harsh effects of climate change, which increase the probability and severity of disasters. Communication services are critical in times of emergent crises. At the joint Commission and CalOES workshop held in this proceeding, CalOES officials stated that 80 percent of all calls to 9-1-1 came from wireless devices.⁸⁰ This reflects the fact that greater consumer and First Responder dependence relies heavily on communication services – especially, wireless communications.⁸¹

We adopt the customer protections from Resolutions M-4833, M-4835, and D.18-08-004 for customers of the following communications companies within our jurisdiction as set forth below, with the exception of the protections specific to the California LifeLine Program.⁸² The protections for California LifeLine Program participants will be addressed separately from this Decision.

The customer protections for facilities based and non-facilities-based landline providers (*e.g.*, 9-1-1/E9-1-1 providers, LifeLine providers, VoIP

⁷⁹ Tracfone Wireless Comments on Assigned Commissioner and Administrative Law Judge’s Ruling Noticing Workshops and Opening Workshop Statements at 2.

⁸⁰ Workshop Transcript at 15, “In the October [2017] wildfires, approximately 80 percent of 9-1-1 calls came from cellular devices...” Statement of Mark Ghilarducci, Director of the Governor’s Office of Emergency Services.

⁸¹ *Id.*

⁸² The protections specific to the California LifeLine Program adopted in D. 18-08-004 are the delay of the California LifeLine Renewal Process, suspension of the de-enrollment for non-usage rules, and the outreach methods stipulated in Res. M-4835.

providers, COLRs, and other landline providers that do not fall into the aforementioned groups) are:⁸³

1. Waiver of one-time activation fee for establishing remote call forwarding, remote access to call forwarding, call forwarding features and messaging services;
2. Waiver of the monthly rate for one month for remote call forwarding, remote access to call forwarding, call forwarding, call forwarding features, and messaging services;
3. Waiver of the service charge for installation of service at the temporary or new permanent location of the customer and again when the customer moves back to the premises;
4. Waiver of the fee for one jack and associated wiring at the temporary location regardless of whether the customer has an Inside Wire Plan;
5. Waiver of the fee for up to five free jacks and associated wiring for Inside Wiring Plan customer upon their return to their permanent location;
6. Waiver of the fee for one jack and associated wiring for non-Plan customers upon their return to their permanent location;⁸⁴

We believe these protections are consistent with and further the objectives of our statutory mandate under Section 451: “to regulate public utilities to ensure that customers receive safe and reliable service at just a reasonable rates.”⁸⁵

⁸³ Cal. Pub. Util. Comm., Resolution M-4833, *Emergency Authorization and Order Directing Utilities to Implement Emergency Consumer Protections to Support Residential Customers of the October 2017 California Wildfires*, at 10-16; Cal. Pub. Util. Comm., Resolution M-4835, *Emergency Authorization and Order Directing Utilities to Implement Emergency Consumer Protections Related to the December 2017 California Wildfires to Support Residential and Non-Residential Customers*, at 8-13.

⁸⁴ *Id.*

⁸⁵ Pub. Util. Code § 451.

This decision authorizes a narrow scope of billing and customer relief in the aftermath of a disaster, such as a wildfire, when the governor or president has declared a state of emergency. The customer relief measures we adopt here are intended to protect the health and safety of California residents and businesses. We disagree with parties' arguments that the Commission is expressly preempted by federal law from exercising our police power in responding to the governor of California's declaration of a state of emergency, or in the alternative, the president's declaration of a state of emergency, and provide Californians with relief in times of crisis.

The consumer protections for wireless providers (e.g., those that provide access to E9-1-1 and/or Lifeline services) follow. Items 1-6 apply to (2A) facilities-based wireless providers, and items 4-8 apply to (2B) resellers and non-facilities-based wireless providers, (e.g. mobile virtual network operators [MVNOs]).⁸⁶

1. Deploy mobile equipment, including Cells on Wheels and Cells on Light Trucks, to supplement service in areas that need additional capacity to ensure access to 9-1-1/E9-1-1 service;
2. Provide device charging stations in areas where impacted wireless customers seek refuge from fires; and
3. Provide WiFi access in areas where impacted wireless customers seek refuge from fires.

The following are directed to all facilities-based and non-facilities based wireless providers, including resellers:⁸⁷

⁸⁶ D.18-08-004 at 9.

⁸⁷ *Id.*

4. Provide mobile phones for customers seeking shelter from a disaster to use temporarily at a county or city designated shelter.
5. The Commission urges wireless carriers to allow customers to defer or phase payment for coverage charges for data, talk, and text for defined periods of time;
6. The Commission urges wireless carriers to extend payment dates for service for defined periods of time for impacted customers;
7. Consider providing temporary replacement phones for customers whose phones were lost or damaged as a result of a disaster or evacuation.
8. Consider providing temporary replacement phones for customers whose phones were lost or damaged as a result of a disaster or evacuation.

The relief measures create a floor of customer protections beyond which the facilities-based and non-facilities based wireless providers, including resellers, may offer additional relief measures, including those tailored to specific customer needs.

We disagree with CTIA's argument that the Commission lacks authority to impose these disaster relief measures as regulatory mandates to wireless carriers because they are consumer protection measures that fall squarely within our preserved jurisdiction over "other terms and conditions." See Jurisdiction discussion, *supra*.

The measures we adopt here do not concern the rates wireless providers may charge their customers. Nor do these measures in any way restrict or otherwise regulate the ability of wireless providers to enter the California telecommunications market. Indeed, wireless service providers offer service statewide in California.

Finally, 47 USC 332(c)(3)(A) does not preempt state police power, and that is what we exercise here, in adopting measures to ensure public safety through a functioning communications network in the event of one or more emergencies. The duty to furnish and maintain safe equipment and facilities that provide just and reasonable service falls squarely on telephone corporations operating in California.⁸⁸ Accordingly, we reject CTIA's and the wireless industry's argument that the Commission is prohibited from imposing these emergency measures on wireless service providers.

The emergency disaster relief protections we establish here encourage consumer protection, support service restoration, and facilitate community functionality and relief in the wake of a disaster.

Protections specific to California LifeLine Program participants, including those receiving service from non-facilities based wireless service providers, will be addressed separately in this proceeding.

4.4. Public Awareness of Customer Protections

Time and again, disasters demonstrate how demographic and socio-economic factors exacerbate the impact of catastrophes. It is important to ensure that all customers are aware of these emergency customer protections before a disaster occurs so that during times of crises, customers have equal access to these protections. Throughout this proceeding,⁸⁹ we asked whether the Commission should direct the communications service carriers to develop

⁸⁸ D.16-08-021 at 28.

⁸⁹ Assigned Commissioner and Administrative Law Judge's Ruling Seeking More Information on Emergency Disaster Relief Program, February 5, 2019.

proposals to maximize customer awareness regarding the availability of these disaster relief customer protections in specific emergency and disaster situations.

4.4.1. Position of Parties

Joint Consumers argue that customer education regarding disaster protections should happen before and during a disaster.⁹⁰ Joint Consumers also contend that there needs to be a reporting requirement; first, to the Commission about the providers' customer education and outreach plan, and then at the conclusion of a disaster, a report to the Commission of what happened, what worked and what may be done differently.⁹¹ Joint Consumers assert that targeting outreach efforts to vulnerable populations is necessary, with easy-to-read descriptions of the emergency disaster communications customer protections and how to access emergency alerts and notifications.⁹²

Consolidated states it provides information about emergency services and processes to a third-party independent directory publisher that prints and distributes directories to all premises in Consolidated's serving area.⁹³

Additionally, Consolidated states it communicates emergency measures through: (1) press releases; (2) public service announcements; (3) its website; (4) outbound call messaging; (5) email communications; (6) direct-mail; and (7) partnerships with emergency crews and other utilities.⁹⁴

⁹⁰ Joint Consumers on Assigned Commissioner and Administrative Law Judge's Ruling at 17.

⁹¹ *Id.* at 18.

⁹² *Id.* at 19.

⁹³ Consolidated Comments on the Assigned Commissioner Administrative Law Judge's Ruling Seeking More Information at 6.

⁹⁴ *Id.*

Verizon Wireless asserts that it conducts customer education outreach on its own and through its membership in CTIA.⁹⁵ Verizon Wireless states that it: (1) uses social media to update customers and local media on matters like network status, store openings, charging stations and other mobile support locations, and the availability of free service to customers in the affected area when offered; (2) posts such information online with updates and additional details of recovery efforts through a dedicated website link; (3) has created an online emergency resource center to provide easier access to this information; (4) uses customer care representatives (who are generally notified of major outage events) to assist customers in finding available information on service restoration status and how affected customers can take advantage of free voice and text service (when offered).⁹⁶

CCTA argues that its members should have flexibility in an emergency to distribute information because conditions during an emergency vary hour-by-hour as recovery proceeds and services are restored or alternatives become available.⁹⁷ CCTA further states that its members use a script for customer service representatives, which describes information relative to the customer's service and disaster related response.⁹⁸

⁹⁵ Verizon Wireless Comments on the Assigned Commissioner Administrative Law Judge's Ruling Seeking More Information at 12.

⁹⁶ *Id.*

⁹⁷ CCTA Comments on the Assigned Commissioner and Administrative Law Judge's Ruling Seeking More Information at 9.

⁹⁸ *Id.*

Cal Advocates argues that all communications companies should proactively notify disaster-stricken customers of available protections.⁹⁹

Cal Advocates asserts that because communications services may be disrupted or degraded, the Commission should require companies to broadcast information over radio as well as broadcast through other media channels and on company websites,¹⁰⁰ and notes that despite the availability of the protections required by Resolutions M-4833 and M-4835, there is no indication of the number of customers which received these protections.¹⁰¹

CTIA states that its members are part of the Wireless Resiliency Cooperative Framework¹⁰² and the Commission should follow that approach for ensuring customers receive critical information about disaster preparedness and relief.¹⁰³

AT&T argues that it leverages its websites, social media presence, text messages, and customer service representatives at call centers and retail stores to disseminate and explain disaster-related information and provide assistance to customers.¹⁰⁴ In addition to providing on-site assistance at local shelters and

⁹⁹ Cal Advocates Preliminary Workshop Comments at 2-3.

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² The Federal Communications Commission adopted an order expressing its support for a voluntary industry commitment and framework (Wireless Resiliency Cooperative Framework) to promote resilient wireless communications and situational awareness during disasters.

¹⁰³ Reply Comments of CTIA on the Assigned Commissioner and Administrative Law Judge's Ruling Seeking More Information at 11-12.

¹⁰⁴ AT&T Reply Comments in Response to Assigned Commissioner and Administrative Law Judge' Ruling Seeking More Information at 3.

community resource centers in the midst of disasters, AT&T also engages local officials and stakeholders to further spread customer assistance information.¹⁰⁵

Frontier argues that educating customers about the emergency disaster relief customer protections should be left to each provider since the provider may have its own best methods, such as public notice, email, and website.¹⁰⁶

4.4.2. Discussion

Raising awareness about the existence of the emergency customer protections before a disaster occurs is vital, so that when disasters do occur, customers are prepared. Here, we establish a baseline set of required outreach and education activities to ensure each communication service provider's plan is robust to reach affected customers. Therefore, in addition to what the communications service providers are currently doing to conduct outreach, we direct the communications service providers to, at minimum, implement ongoing and continuous outreach to customers that clearly communicate the emergency customer protections. The examples below are illustrative of the types of communication mediums and measures communications service providers should employ and take:

- Community outreach;
- Radio
- Webpages;
- Outbound emails;
- Media advisories;
- Social media posts;

¹⁰⁵ *Id.*

¹⁰⁶ Frontier Comments on Assigned Commissioner and Administrative Law Judge's Ruling Noticing Workshops and Ordering Workshop Statements at 3.

- Company websites
- Outbound dialing;
- Customer Contact Centers to provide customers impacted by the disaster information regarding service interruptions, restoration efforts, along with relief support;
- Community outreach centers;
- Local governments;
- Targeted outreach to highly impacted customers;
- Direct mail;
- Newsletters;
- City/County assistance centers;
- Trained staff at local assistance centers to work in-person with affected customers;
- Partnering with community-based organizations that serve income eligible customers to ensure awareness of available customer protections; and
- Communicate customer protections in accessible formats for customers with disabilities impacting their ability to use standard forms of communications.

The communications service providers shall begin conducting this outreach upon the effective date of this decision. The communications service providers have the flexibility to create a mix of tactics utilized at strategic times to reach customers and aid them in their understanding of these programs. The communications service providers shall communicate the timelines of the customer protections clearly to customers.

The communications service providers are not barred from implementing more customer outreach programs to increase awareness about the emergency customer protections. We encourage and support their efforts to raise maximum

awareness about the customer protections before a disaster occurs so customers are prepared should tragedy strike.

For continuity with Section 8386(c)(16)(B), we required the electric corporations to communicate these customer protections in several languages.¹⁰⁷ For consistency in regulation, and to ensure that all customers are aware of these emergency customer protections before a disaster occurs so that during times of crises, customers have equal access to these protections, we applied the public policy intent of Section 8386(c)(16)(b) to natural gas, water and sewer utilities.¹⁰⁸ For illustrative purposes, Section 8386(c)(16)(B) mandates that the utilities' plan for community outreach and public awareness before, during, and after a wildfire (disaster) be communicated in English, Spanish, and the top three primary languages used in the state other than English or Spanish, as determined by the Commission based on the United States Census data.

For steadiness and consistency with our prior actions over the electric, natural gas, water, and sewer utilities,¹⁰⁹ and taking official notice of United States Census data pursuant to Rule 13.9 of the Commission's Rules of Practice and Procedure, the Commission applies the multilingual determinations from D.19-07-015 here, and finds that the following languages are the three most common languages used in the state other than English or Spanish: Chinese (including Cantonese, Mandarin), Tagalog, and Vietnamese. In addition to those languages, the communication service providers may provide outreach in

¹⁰⁷ D.19-07-015 at 49.

¹⁰⁸ *Id.*

¹⁰⁹ *Id.*

Korean and Russian, where these languages are prevalent in the company's service territory.

The communications service providers shall communicate these customer protections in the above languages as part of their plan for community outreach and public awareness before, during, and after a disaster in the above stated languages.

Should we adopt additional language outreach requirements in other proceedings, including adding less prevalent languages, we may address adoption of such requirements in this proceeding, with appropriate process.

Finally, within 60 days from the effective date of this decision, the communications service carriers shall file a Tier 1 Advice Letter setting forth a plan for customer outreach of these emergency customer protections in English, Spanish, Chinese (including Cantonese and Mandarin), Tagalog, and Vietnamese as well as Korean and Russian where these languages are prevalent within the carriers' service territories.

4.5. Administrative Compliance Actions Taken Pre- and Post-Disaster

In the rulings of the Assigned Administrative Law Judge, parties were asked what compliance reporting should occur to notify the Commission of the implementation of the emergency customer protections and what final reporting should be required.

4.5.1. Position of Parties

Cox asserts that advice letter filings are not necessary in the event of a governor-declared state of emergency.¹¹⁰ TracFone states that wireless resellers

¹¹⁰ Pre-workshop Comments of Cox at 2.

should be exempt from any requirements in this proceeding.¹¹¹ CTIA argues that the Commission has no authority to impose any regulatory mandates on wireless carriers.¹¹² Frontier asserts that advice letter filings are not necessary and should not be required because restoration times may vary. Frontier further states that, if necessary, providers can respond to Commission staff inquiries regarding restoration of service.¹¹³

Joint Consumers argue that an advice letter process or a semi-annual report is a critical feedback loop to ensure the emergency customer protection rules are effective.¹¹⁴

Cal Advocates asserts that some carriers could not document the number of customers that benefited from the assistance and protections offered in response to Resolutions M-4833 and M-4835.¹¹⁵ Cal Advocates contends that AT&T did not supply any documentation that customer service representatives were trained and informed of the protections.¹¹⁶ Similarly, Cal Advocates asserts that Frontier could not supply it with any quantification or estimates of the number of customers who received their offered protections.¹¹⁷

¹¹¹ Tracfone Wireless Comments on Assigned Commissioner and Administrative Law Judge's Ruling Noticing Workshops and Opening Workshop Statements at 2.

¹¹² Workshop Comments of CTIA at 4.

¹¹³ Frontier Comments on Assigned Commissioner and Administrative Law Judge's Ruling Noticing Workshops and Ordering Workshop Statements at 2.

¹¹⁴ Reply Comments of Joint Consumers of Assigned Commissioner and Administrative Law judge's Ruling Noticing Workshops and Ordering Workshop Statements at 19.

¹¹⁵ *Id.*

¹¹⁶ *Id.*

¹¹⁷ *Id.*

4.5.2. Discussion

We agree with Joint Consumers' position that advice letter filings are necessary in order to ensure that emergency consumer rules are implemented effectively. Therefore, the communications service providers are directed to file a Tier 1 Advice Letter within 15 days of a declared state of emergency notifying the Commission of their implementation of the emergency customer protections. The communications service provider must attest that they have complied with all required actions that are applicable to the type of service they provide. After the conclusion of the disaster or at the default, 12-month conclusion of the customer protection period, the communications service providers shall file another Tier 1 Advice Letter detailing the protections offered, outreach efforts, and customer impacts. The Tier 1 Advice Letters shall be filed on the service list of this rulemaking to ensure that all interested parties have the opportunity, through timely and efficient means, to receive notice and review these filings.

We permit a service provider to request a blanket exemption from the advice letter filing, via letter on an annual basis, from the Director of the Communications Division if none of the adopted protections are applicable to its services or customers. If any of the adopted protections become applicable at any point during the period that was granted an exemption, the service provider must file a Tier 1 advice letter reporting compliance with implementing this Decision's mandated emergency disaster relief customer protections and outreach activities.

4.6. Cost Recovery

The Small LECs argue that the question of cost-recovery for disaster relief should be included in this proceeding.¹¹⁸

4.6.1. Discussion

D.17-12-024 and D.12-01-032 find that the Small LECs may use the annual CHCF-A Tier 3 advice letter process to request recovery through a fire hazard prevention memorandum account (FHPMA), to be verified by staff and assessed for reasonableness of recorded costs. The Small LECs are directed to comply with the requirements of D.17-12-024 and D.12-01-032.

5. Phase II

5.1. Next Steps

Throughout the course of this proceeding, we engaged with stakeholders to determine the best way forward for communications service providers, the Commission, CalOES, CalFIRE, and other emergency agencies to ensure that necessary information is clearly communicated and coordinated during times of crises through a resilient network.

On November 1, 2018, the Commission and CalOES held a joint-all party public workshop where the parties considered this topic, among others. At the workshop, Commission staff with CalOES officials, questioned parties about coordinated engagement between industry and government emergency services.

Joint Consumers stated that “all Californians [should be] provided relief efforts regardless of who their providers are And if [there are people] in an

¹¹⁸ Small LECs Comments on Assigned Commissioner and Administrative Law Judge’s Ruling Noticing Workshops and Ordering Workshop Statements at 6.

area that's more sparsely populated, [those residents] might even have more need to receive [customer protections]"¹¹⁹

Alternatively, in response to questions presented, the carriers largely remained silent. Joint Consumers took issue with the industry's lack of response and participation at the workshop. Joint Consumers stated:

"... it is very telling, the unwillingness of respondents and carriers to respond or participate on these issues of how to serve their actual customers who are experiencing emergencies. Certainly, protections that only apply until service is restored is fundamentally inadequate when the very premise of this proceeding is to help in the recovery to customers who are impacted by a disaster. So the economic impact on a community that has suffered from wildfires, as we all know, lasts much longer than the actual duration of utility service being disrupted, and, certainly the financial relief measures that are under discussion, like availability of payment plans for people who might lose income, need to go beyond restoration of service."¹²⁰

Verizon Wireless stated it has shared metrics with critical public safety entities that include customer service levels, network availability, call performance, data performance, and text performance.¹²¹ Verizon wireless also stated that, "[the] turn around [is] also variable. That's why it's not easy for the provider to put the finger on the pulse of every single issue in such a manner."¹²²

In response, a CalOES official stated:

At the end of the day, our customers are your customers. If they can't get out to us, they can't get to anybody else. And if

¹¹⁹ CPUC and CalOES Workshop Transcript at 92-93.

¹²⁰ *Id.* at 110-111.

¹²¹ *Id.* at 112.

¹²² *Id.* at 112.

we can't provide that service, your credibility and ours is going to be zero at the end of the day. I'll just make that as clear as I can. If I can't make a 9-1-1 call, if I can't hear from the cellular, and I can't do it on 9-1-1, at the end of the day, we're not going to survive, period. ... We've got to be more transparent, we've got to share things in more real time. At the end of the day, we want to protect people's lives and property. That's what it's going to take... it doesn't really matter whether we're on hardline, cellular, or VoIP. If we don't develop systems so the public is aware, and we're also aware in different communities and different parts of the country, it will much harder for us to provide service that's out there.¹²³

5.1.1. Discussion

During disasters, when people are rushing out of a threatened area or having to communicate with 9-1-1 centers, the communication link is critical for life-saving operations. Phase II of this rulemaking will focus on having a resilient and dependable communications grid that aids first responders and communicates with the public in a timely manner. California's communications system is our most essential component for public safety, and Phase II will focus on enhancing communications from this public safety component. Phase II will consider fines and citations for non-compliance with our orders. A subsequent Scoping Memo in this proceeding will be issued.

D.18-08-004 included three relief measures for California LifeLine Program participants: delay of the California LifeLine Renewal Process, suspension of the de-enrollment for non-usage rules, and the outreach methods adopted in Resolution M-4835. On May 14, 2019, the Assigned Administrative Law Judge (ALJ) issued a ruling seeking comment on a Staff Proposal for relief measures for

¹²³ *Id.* at 113-114.

California LifeLine participants residing in counties impacted by disasters. Specifically, this Staff Proposal presented options and requested comment aimed toward dealing with situations when the Federal Communications Commission does not grant the Commission a waiver of the federal Lifeline program's rules pertaining to the annual recertification process and/or de-enrollment for non-usage. Separately in this proceeding, the Commission expects to consider permanent relief measures for California LifeLine participants affected by disasters.

6. Comments on Proposed Decision

The proposed decision of President Michael Picker in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on August 5, 2019, by Joint Consumers, CalTEL, Cal Advocates, the Small LECs, Cox, CCTA, AT&T, and CTIA. Reply comments were filed on August 12, 2019 by the National Consumer Law Center, CTIA, Verizon, TURN, Center for Accessible Technology, Cox, and CCTA. This decision has been revised based on comments, where appropriate.

AT&T, CTIA, and Verizon argued generally, that: (1) several of our proposed rules exceed the Commission's authority and/or are preempted by federal law; and (2) Section 710(a) prohibits applying the proposed rules to VoIP service. We disagree, as discussed above.

Joint Consumers and Cal Advocates proposed modifications to enhance the advice letter requirements of our rules in this decision as well as modifications to our findings and conclusions. The decision has been revised accordingly, where appropriate.

TURN argues in support of our exercise of jurisdiction and provided support to clarify any ambiguity about the loaner phone requirement. In support of TURN and the National Consumer Law Center (below), Center for Accessible Technology supports the provisions of this decision as well as the comments provided by the National Consumer Law Center and TURN. We agree with TURN's arguments and proposals and have modified the decision accordingly.

The National Consumer Law Center disagreed with Cox's argument against the requirement of advice letters. We agree with the National Consumer Law Center's arguments in support of our advice letter requirements.

CALTEL, among other arguments, requested that we: (1) clarify that the mandated protections apply to small businesses and use the definition of a small business as stated in GO 133-D; and (2) permit CLECs to request a blanket exemption on an annual basis from filing advice letters when the service provider does not offer and/or charge for the services included in the mandated protections. We have modified the decision accordingly.

CCTA and Cox generally argued that: (1) the mandatory obligations should end when service is restored; (2) the mandatory obligations should only apply when the event leading to an emergency declaration is the cause of service disruption or degradation; (3) the multilingual requirements conflict with existing Commission requirements and state law and the customer awareness requirements should not be adopted; (4) the "Loaner Phone" requirement is unlawful; (5) 710(a) prohibits applying the proposed rules to VoIP service; and (6) advice letters are unnecessary in light of the requirement for carriers to have tariffs or plans in place that implement applicable customer protections. Where we agree with CCTA, the Decision has been modified accordingly. Where we

disagreed with CCTA and Cox, we declined to accept their arguments and proposed modifications.

The Small LECs requested clarification on the content of the required advice letters and asked for modifications to the cost-recovery measures in this Decision. We clarified the requirements and content for the advice letters. No further clarification or modifications to the cost-recovery process already discussed for the Small LECs in this Decision are necessary.

7. Assignment of Proceeding

Michael Picker is the assigned Commissioner and Colin Rizzo is the assigned ALJ in this proceeding.

Findings of Fact

1. On October 8, 2017, multiple wildfires broke out throughout Northern California.
2. On October 9 and 10, 2017, Governor Edmund G. Brown, Jr., declared states of emergency in the Counties of Butte, Lake, Mendocino, Napa, Nevada, Orange, Solano, Sonoma, and Yuba due to fires.
3. In 2017, the Commission required California's regulated electric, natural gas, water, and sewer utilities to offer specific customer protections for those affected by the 2017 wildfires in Resolutions M-4833 and M-4835.
4. Resolution M-4833 and M-4835 offered the following customer protections for residential communications customers: (1) a waiver of the one-time activation fee for establishing Remote Call Forwarding, Remote Access to Call Forwarding, Call Forwarding features and Messaging services; (2) a waiver of the monthly rate for one month for remote call forwarding, remote access to call forwarding, call forwarding features and messaging services; (3) a waiver of the service charge for installation of service at the temporary or new permanent

location of the customer and again when the customer moves back to the original premises; (4) a waiver of the fee for one jack and associated wiring at the temporary location regardless of whether the customer has an Inside Wire plan; (5) a waiver of the fee for up to five free jacks and associated wiring for Inside Wire Plan customers upon their return to their permanent location; and (6) a waiver of the fee for one jack and associated wiring for non-Plan customers upon their return to their permanent location.

5. Decision 18-08-004 established the following the requirements applicable to wireless providers:¹²⁴ (1) the deployment of mobile equipment, including Cells on Wheels and Cells on Light Trucks, to supplement service in areas that need additional capacity to ensure access to 9-1-1/E9-1-1 service; (2) the provision of device charging stations in areas where impacted wireless customers seek refuge from fires; (3) the provision of WiFi access in areas where impacted wireless customers seek refuge from fires; and (4) the provision of “loaner” mobile phones to impacted customers whose mobile phones are not accessible due to the emergency. In addition, the Commission urges wireless carriers to allow customers to defer or phase payment for coverage charges for data, talk, and text for defined periods of time; and the Commission urges wireless carriers to extend payment dates for service for defined periods of time for impacted customers.

6. Resolutions M-4833 and M-4835 required LifeLine emergency protections and outreach.

7. In 2018, a series of gubernatorial states of emergency were declared as a result of wildfires in the Counties of Lake, Siskiyou, San Diego, Santa Barbara,

¹²⁴ D.18-08-004 at 9-10.

Riverside, Shasta, Mariposa, Mendocino, Napa, Butte, Los Angeles, Ventura, and Colusa.

8. On August 9, 2018, the Commission issued an interim decision, D.18-08-004, affirming the provisions of Resolutions M-4833 and M-4835 as interim disaster relief emergency customer protections for utility customers.

9. United States Census data show that the top three primary languages used in California other than English and Spanish are Chinese (including Cantonese and Mandarin), Tagalog, and Vietnamese.

10. It is critical to sustain or restore essential communications functions, deliver critical communications services, and supply communications to customers and emergency officials following a declared state of emergency.

11. 2-1-1 service plays a critical role in providing information and support in times of disaster, such as evacuations, shelter, food, medical and recovery information and provides public officials with feedback from callers about changing conditions.

12. During the October 2017 wildfires, approximately 80 percent of all 9-1-1 calls came from cellular devices.

Conclusions of Law

1. Pub. Util. Code §§ 216 and 234, the Commission has broad jurisdiction over “public utilities” and “telephone corporations.”

2. Pub. Util. Code § 216, a “public utility” includes every “telephone corporation” where service is performed, or a commodity is delivered to the public or any portion thereof.

3. Pub. Util. Code § 234, “telephone corporation” includes “every corporation or person owning, controlling, operating, or managing any telephone line for compensation in this state.”

4. Pub. Util. Code § 233, a “telephone line” includes “all conduits, ducts, poles, wires, cables, instruments, and appliances, and all other real estate, fixtures, and personal property owned, or controlled, operated, or managed in connection with or to facilitate communication by telephone, whether such communication is had with or without the use of transmission wires.” It follows then that the means by which a telephone corporation provides service – analog, wireless technology or Internet protocol (IP) technology – does not affect whether the provider is a public utility telephone corporation.

5. Cal. Const., art. XII, §§ 1-6; Pub. Util. Code, § 701 establishes the Commission’s authority over public utilities, including oversight over public utility practices and facilities.

6. Pub. Util. Code § 451 requires the Commission to ensure that utilities, including telephone corporations, “furnish and maintain such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities ... as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public.”

7. Pub. Util. Code §§ 761, 762 establishes the Commission’s ongoing responsibility to ensure the reasonableness and sufficiency of utility facilities and may order “additions, extensions, repairs, or improvements to, or changes in” utility facilities which the Commission finds “ought reasonably to be made.”

8. Pub. Util. Code § 1001 establishes the Commission’s exclusive authority to grant “certificates” (i.e., a certificate of public convenience and necessity [“CPCN”]) to a public utility seeking to operate in California.

9. Pub. Util. Code § 7901 provides that a CPCN confers upon a public utility numerous benefits simultaneously with the aforementioned obligations, among others, that the Public Utilities Code and CPUC mandate. For instance, public

utility telephone corporations have the right to interconnect with other service providers and the ability to access the public rights-of-way to build or install facilities to provide their services.

10. In the last 30 years, both federal and state laws have imposed limits on the Commission's authority over certain communications services, such as wireless service as well as VoIP and IP-enabled services, provided by telephone corporations.

11. 47 U.S.C.S. § 332, subd. (c)(3)A, a federal statute, prohibits states from regulating "the entry of or the rates charged by any commercial mobile service or any private mobile service," yet wireless service remains subject to state regulation.

12. 47 U.S.C.S. § 332, subd. (c)(3)A, a federal statute, expressly preserves state jurisdiction over all other matters not falling within the categories of rate or entry regulation, including the "other terms and conditions" of wireless service.

13. The Communications Act does not define the terms "entry" or "other terms and conditions," but the legislative history shows that consumer protection matters fall within "terms and conditions": Section 332(c)(3) provides that state or local governments cannot impose rate or entry regulation on private land mobile service or commercial mobile services; this paragraph further stipulates that nothing here shall preclude a state from regulating the other terms and conditions of commercial mobile services. It is the intent of the Committee that the states still would be able to regulate the terms and conditions of these services. *By "terms and conditions," the Committee intends to include such [] matters as customer billing information and practices and billing disputes and other consumer protection matters; facilities citing issues (e.g. zoning); transfers of control; the bundling of services and equipment; and the requirement that carriers make capacity available on a*

wholesale basis or such other matters as fall within a state's lawful authority. [] This list is intended to be illustrative only and not meant to preclude other matters generally understood to fall under "terms and conditions." Moriconi v. AT&T Wireless PCS, LLC (E.D. Ark. 2003) 280 F.Supp.2d 867, 873-874, citing H.R. Rep. No. 103-111, 103d Con. 1st Sess (1993), reprinted in 1993 U.S.C.C.A.N. 378, 588, emphasis added.

14. The Commission continues to retain broad authority over wireless service.

15. Pub. Util. Code § 710, enacted in 2015, placed more restrictions on the Commission's regulatory authority over Voice over Internet Protocol (VoIP) and other IP-enabled services.

16. Pub. Util. Code § 710 states that the Commission "shall not exercise regulatory jurisdiction or control" over VoIP and IP-enabled services "except as required or delegated by federal law, expressly provided in statute, or as provided in Section 710. The statute contains numerous exceptions preserving the Commission authority over some aspects of VoIP and IP-enabled services.

17. VoIP providers clearly fit within the plain language of the definition of a public utility "telephone corporation."

18. Both before and after Section 710 was enacted, the Commission routinely granted applications for Certificates of Public Convenience and Necessity (CPCNs) requested by VoIP providers, if the provider was otherwise eligible for a CPCN.

19. Pub. Util. Code § 1001 gives the Commission authority to grant a CPCN if the provider is a public utility telephone corporation

20. Pub. Util. Code § 710 exceptions themselves demonstrate that the Commission retains some authority over VoIP providers as public utility telephone corporations. The Commission would only have authority over, for

example, interconnection and intercarrier compensation (exceptions Section 710(c)(3) & (c)(5)) if VoIP providers are public utility telephone corporations. From the standpoint of a customer, VoIP and traditional landline service are essentially the same. And such VoIP services are becoming more and more prevalent.

21. The use of the word “services” in Section 710 was intentional.

22. Decision 16-08-021 explained that: “pursuant to the plain language and the legislative history of the statute, Section 710 is not a blanket prohibition on the regulation of facilities over which VoIP services are transported. Section 710 contains certain exceptions relating to facilities (e.g., the Commission’s authority to enforce existing requirements regarding backup power (Section 710 (c)(6)) and the Commission’s authority regarding access to support structures, including pole attachments, or to the construction and maintenance of facilities pursuant to GOs 95 and 128 (Section 710 (c)(7)). Regardless of what services are being transported, the telecommunications network is interconnected. We do not believe that the Legislature intended to bar the Commission from ensuring a safe and reliable telecommunications network by allowing facilities that provide VoIP services to go unmonitored.” Thus, to the extent some requirements, such as service quality, may apply to facilities or providers, and not specifically to VoIP services, they are allowed under section 710.

23. VoIP providers are required to offer 9-1-1 services under both state and federal law.

24. 9-1-1 service is a component of basic service as the CPUC has defined it for over 25 years, and as such, providers are required to maintain 9-1-1 tariffs on file with the CPUC circa Decision 12-12-038 [decision adopting revisions to “basic service” definition] and Section 495.7(b) [“The commission may, by rule or

order, partially or completely exempt certain telecommunications services, *except basic exchange service offered by telephone or telegraph corporations*, from the tariffing requirements of Sections 454, 489, 491, and 495.” (Emphasis added.)].

25. The Commission’s oversight of 9-1-1 service is contained in several sections of the Public Utilities Code: Section 742 (9-1-1 for public telephones); section 2883 (9-1-1 service and “warm lines”); Section 2889.6 (information to customers regarding 9-1-1); and Section 2892 (requiring wireless carriers to provide access to 9-1-1 service).

26. Public Utilities Code section 710 expressly states that its prohibition of VoIP regulation does not apply to 9-1-1 emergency services. Section 710 (c)(8) states: “This section does not affect or supersede” the “Warren-9-1-1-Emergency Assistance Act.”¹²⁵ The Warren-9-1-1-Emergency Assistance Act established “9-1-1” as the primary emergency telephone number for use in California.¹²⁶ This Act addresses the roles of local public agencies, the Public Safety Communication Division, within the Office of Emergency Services, and the Attorney General. While the Commission recognizes the primary role of the Office of Emergency Services (OES) to implement the 9-1-1 system, as the agency with primary jurisdiction over telephone corporations, the Commission, would have the authority to enforce/implement requirements that support 9-1-1 service.

27. The Commission also retains authority to regulate 9-1-1/E9-1-1 services regardless of what technology is used to provide the service. The customer protection rules adopted in this decision relate to the provision of basic service, 9-1-1 service, and access to the network in the event of an emergency. As such,

¹²⁵Gov. Code § 53100 et seq.

¹²⁶ Gov. Code, §§ 53100, 53111.)

we do not believe that adopting and enforcing these protections are prohibited by Section 710.

28. 47 USC 332(c)(3)(A) does not preempt state police power, and that is what we exercise here, in adopting measures to ensure public safety through a functioning communications network in the event of one or more emergencies.

29. D.16-08-021 holds that the duty to furnish and maintain safe equipment and facilities that provide just and reasonable service falls squarely on telephone corporations operating in California. There is no regulatory taking where the regulations merely maintain the status quo. It is reasonable to identify examples of facilities-based and non-facilities based landline providers, for the purposes of this decision, as 9-1-1/E9-1-1 providers, LifeLine providers, providers of Voice-Over-Internet Protocol (VoIP), Carriers of Last Resort (COLRs), and other landline providers that do not fall into the aforementioned groups.

30. It is reasonable to identify examples of wireless providers (*e.g.*, those that provide access to E9-1-1 and/or LifeLine services) as category (2A) facilities-based wireless providers and as category (2B) non-facilities-based wireless providers (*e.g.*, resellers and mobile virtual network operators).

31. It is reasonable to require the landline providers, as defined in Conclusion of Law 13, and wireless providers, as defined in Conclusion of Law 14, to implement the emergency customer protections when the governor of California or the president of the United States declares a state of emergency and where the state of emergency has disrupted the delivery or receipt of utility service and/or the degradation of the quality of utility service to communications service provider customers.

32. It is reasonable to define disruption of the delivery or receipt of service when a disaster(s) has resulted: (1) loss of dial tone; (2) no connection or

otherwise non-functioning service; (3) cannot make or receive a voice call because the disaster has rendered the service nonfunctional and is unable to make a 9-1-1 call.

33. It is reasonable to define degradation of service where the disaster(s) that led to an emergency declaration has rendered the service as not being completely out, but callers still encounter poor service quality, including, but not limited to, static, failure to connect, fast busy signal, and/or dropped calls, including 9-1-1 calls.

34. It is reasonable to adopt a 24-hour threshold for service disruption or degradation as a trigger for certain customer protections (*e.g.*, waiver of fees for call forwarding) while other customer protections may need to be deployed less than 24 hours after loss of service (*e.g.*, deployment of Cells on Wheels and Cells on Light Trucks).

35. It is reasonable for all customers whose communications service is disrupted or degraded, within an area that is declared to be in a state of emergency by the governor of California or president of the United States to be covered under the protections set forth here.

36. It is reasonable to exempt a state of emergency for drought conditions from this Decision.

37. It is reasonable to apply these protections to both residential and small business customers. The definition of residential and small business customers shall be the same definition the Commission has previously adopted in General Order (GO) 133-D: a customer is a separate account number for voice service, or

bundle of services, including voice, and includes small business (5 lines or less) and residential customers.¹²⁷

38. It is reasonable to prohibit the conclusion of the implementation of the mandated customer protections no sooner than twelve (12) months from the date of the emergency proclamation or as appropriately determined by the Governor's Office of Emergency Services. It is reasonable to require the landline providers, as defined in Conclusion of Law 13, to provide the following mandated protections to their customers who are in a disaster-affected area under a covered emergency declaration by the governor of California or president of the United States: (a) waiver of one-time activation fee for establishing remote call forwarding, remote access to call forwarding, call forwarding features and messaging services; (b) waiver of the monthly rate for one month for remote call forwarding, remote access to call forwarding, call forwarding, call forwarding features, and messaging services; (c) waiver of the service charge for installation of service at the temporary or new permanent location of the customer and again when the customer moves back to the premises; (d) waiver of the fee for one jack and associated wiring at the temporary location regardless of whether the customer has an inside wiring plan; (e) waiver of the fee for up to five free jacks and associated wiring for inside wiring plan customer upon their return to their permanent location; and (f) waiver of the fee for one jack and associated wiring for non-Plan customers upon their return to their permanent location.

39. It is reasonable to require the category 2A wireless providers, as defined in Conclusion of Law 14, to give customers who are in a disaster-affected area

¹²⁷ GO 133-D, Section 1.3 (Definitions), (g).

under a covered emergency declaration by the governor of California or president of the United States: (a) deployment of mobile equipment, including Cells on Wheels and Cells on Light Trucks, to supplement service in areas that need additional capacity to ensure access to 9-1-1/E9-1-1 service; (b) provide device charging stations in areas where impacted wireless customers seek refuge from fires; (c) provide WiFi access in areas where impacted wireless customers seek refuge from fires; (d) provide mobile phones for customers seeking shelter from a disaster to use temporarily at a county or city designated shelter; (e) to consider allowing customers to defer or phase payment for coverage charges for data, talk, and text for defined periods of time; (f) to consider providing temporary replacement phones for customers who phones were lost or damaged as a result of a disaster or evacuation. The relief measures create a floor of customer protections beyond which the category 2A wireless providers may offer additional relief measures, including those tailored to specific customers' needs; and (g) extending payment dates for service for defined periods of time for impacted customers.

40. It is reasonable to require the category 2B wireless providers, as defined in Conclusion of Law 14, to provide the following mandated protections to their customers who are in a disaster affected area under a covered emergency declaration by the governor of California or president of the United States: (a) to provide mobile phones for customers seeking shelter from a disaster to use temporarily at a county or city designated shelter; (b) consider allowing customers to defer or phase payment for coverage charges for data, talk, and text for defined periods time; (c) to consider extending payment dates for service for defined periods of time for impacted customers; and (d) to consider providing temporary replacement phones for customers whose phones were lost or

damaged as a result of a disaster or evacuation. The relief measures create a floor of customer protections beyond which the category 2B wireless providers may offer additional relief measures, including those tailored to specific customer needs.

41. It is reasonable to require the landline providers, as defined in Conclusion of Law 13, and wireless providers, as defined in Conclusion of Law 14, to file a Tier 1 Advice Letter within 15 days of a declared state of emergency attesting that they have complied with all required actions, designated based on the type of service they provide.

42. It is reasonable to require the landline providers, as defined in Conclusion of Law 13, and wireless providers, as defined in Conclusion of Law 14, to file a Tier 1 Advice Letter documenting compliance with the mandates in this decision, twelve months following a qualifying event.

43. It is reasonable to allow a service provider to request a blanket exemption via a letter on an annual basis from the Director of the Communications Division that explains that none of the adopted protections are applicable to its services or customers, and require that provider to send another Tier 1 advice letter in the event that any of the protections in fact, become applicable.

44. It is reasonable to require all Tier 1 Advice Letters, in compliance with this Decision, to be filed on the service list of this rulemaking to ensure that all interested parties have the opportunity, through timely and efficient means, to receive notice and review these filings.

45. It is reasonable to give the landline providers, as defined in Conclusion of Law 13, and wireless providers, as defined in Conclusion of Law 14, the discretion to apply or implement additional relief efforts that are unique to its customer experience, to the specific type of damage resulting from a disaster, or

to apply applicable customer protections for customers indirectly affected by the disaster when fairness and equity require auxiliary efforts to supplement the rules set forth here.

46. 2-1-1 service plays a critical role in providing information and support in times of disaster, such as evacuations, shelter, food, medical and recovery information and provides public officials with feedback from callers about changing conditions.

47. It is reasonable to require the landline providers, as defined in Conclusion of Law 13, to work collaboratively with Commission staff and our sister government agencies on measures to instill greater awareness of 2-1-1 services.

48. It is reasonable to require the landline providers, as defined in Conclusion of Law 13, and wireless providers, as defined in Conclusion of Law 14, to conduct the following outreach and awareness to their customers that clearly communicate the customer protections before a disaster occurs and during a disaster: (a) community outreach; (b) webpages; (c) outbound emails; (d) media advisories; (e) social media posts; (f) outbound dialing; (g) customer contact centers to provide customers impacted by the disaster information regarding service interruptions, restoration efforts, along with relief support; (h) community outreach centers; (i) targeted outreach to highly impacted customers; (j) direct mail; (k) newsletters; (l) city/county assistance centers; (m) trained staff at local assistance centers to work in-person with impacted customers; (n) partnering with community-based organizations that serve income-eligible customers to ensure awareness of available customer protections; (o) local governments; (p) radio; and (q) communicate customer protections in accessible formats for customers with disabilities impacting their ability to use standard forms of communications. Providers shall have the flexibility to utilize

these communication mediums and outreach measures where and how appropriate.

49. It is reasonable to require the landline providers, as defined in Conclusion of Law 13, and wireless providers, as defined in Conclusion of Law 14, to begin conducting outreach to their customers about these protections upon the effective date of this decision.

50. It is reasonable to require the landline providers, as defined in Conclusion of Law 13, and wireless providers, as defined in Conclusion of Law 14, to have flexibility to create a mix of tactics utilized at strategic times to reach customers and aid them in their understanding of the emergency disaster relief programs.

51. It is reasonable to require the landline providers, as defined in Conclusion of Law 13, and wireless providers, as defined in Conclusion of Law 14, to communicate the timelines of the customer protections clearly to customers.

52. Official notice is taken, pursuant to Rule 13.9 of the Commission's Rules of Practice and Procedure, that United States Census data shows that the top three primary languages used in California other than English and Spanish are Chinese (including Cantonese and Mandarin), Tagalog, and Vietnamese.

53. It is reasonable to require the landline providers, as defined in Conclusion of Law 13, and wireless providers, as defined in Conclusion of Law 14, to communicate these emergency disaster relief customer protections in English, Spanish, Chinese (including Cantonese and Mandarin), Tagalog, and Vietnamese as well as Korean and Russian, where these languages are prevalent within the communications service provider service territories. It is reasonable for the customer outreach to be communicated in accessible formats for customers with disabilities impacting their ability to use standard forms of communication.

54. It is reasonable to adopt additional language outreach requirements in other proceedings, including adding less prevalent languages, with appropriate process.

55. It is reasonable to require the Small Independent Local Exchange Carriers to use the annual California High Cost Fund-A advice letter process, as stated in Decision 17-12-024 and Decision 12-01-032, to request recovery through a fire hazard prevention memorandum account (FHPMA), to be verified by staff and assessed for reasonableness of recorded costs.

O R D E R

IT IS ORDERED that:

1. The Commission's adopted emergency disaster customer relief protections shall apply to facilities-based and non-facilities-based landline providers (*e.g.*, 9-1-1/E9-1-1 providers, LifeLine Providers, providers of voice-over-internet protocol, Carriers of Last Resort, and other landline providers that do not fall into the aforementioned groups), and wireless providers' (*e.g.*, those that provide access to E9-1-1 and/or LifeLine services, specifically those that are facilities-based wireless providers and those that are non-facilities-based wireless providers such as resellers and mobile virtual network operators) customers in affected areas in a state of emergency declared by the California Governor's Office or the President of the United States and shall remain in effect pursuant to the timelines established in this Decision. The interim protections for California LifeLine participants adopted in Decision 18-08-004 remain in effect until permanent protections for the California LifeLine Program are adopted separately in this proceeding. Nothing in this Decision bars or otherwise prohibits the communications service providers from implementing their own

disaster assistance programs to supplement these adopted emergency customer protections.

2. In the event the governor of California or a president of the United States declares a state of emergency which has either resulted in the loss or disruption of the delivery or receipt of utility service and/or resulted in the degradation of the quality of utility service, landline and wireless providers, as identified in Ordering Paragraph 1, shall file a Tier 1 Advice Letter within 15 days of the Governor's or President's state of emergency proclamation reporting compliance with implementing this Decision's mandated emergency disaster relief customer protections and outreach activities. These Advice Letters should include which of the required relief measures the provider has implemented, which of the required relief measures the provider will implement pending an FCC Lifeline waiver, which of the required relief measures do not apply because the provider either does not provide or does not charge for that service, and which relief measures, if any, the provider is offering in addition to the required measures. A service provider may request a blanket exemption via a letter on an annual basis from the Director of the Communications Division that explains that none of the adopted protections are applicable to its services or customers, and require that provider to send another Tier 1 advice letter in the event that any of the protections in fact, become applicable.

3. Landline providers, as defined in Ordering Paragraph 1, shall provide the following mandated protections to their customers who are in a disaster-affected area under a covered emergency declaration by the governor of California or president of the United States: (a) waiver of one-time activation fee for establishing remote call forwarding, remote access to call forwarding, call forwarding features and messaging services; (b) waiver of the monthly rate for

one month for remote call forwarding, remote access to call forwarding, call forwarding, call forwarding features, and messaging services; (c) waiver of the service charge for installation of service at the temporary or new permanent location of the customer and again when the customer moves back to the premises; (d) waiver of the fee for one jack and associated wiring at the temporary location regardless of whether the customer has an inside wiring plan; (e) waiver of the fee for up to five free jacks and associated wiring for inside wiring plan customer upon their return to their permanent location; and (f) waiver of the fee for one jack and associated wiring for non-Plan customers upon their return to their permanent location.

4. Facilities-based wireless providers, such as those that provide access to E9-1-1 and/or LifeLine services shall provide the following mandated protections to their customers who are in a disaster affected area under a covered emergency declaration by the governor of California or president of the United States:

(a) deploy of mobile equipment, including Cells on Wheels and Cells on Light Trucks, to supplement service in areas that need additional capacity to ensure access to 9-1-1/E9-1-1 service; (b) provide device charging stations in areas where impacted wireless customers seek refuge from fires; (c) provide WiFi access in areas where impacted wireless customers seek refuge from fires; (d) provide mobile phones for customers seeking shelter from a disaster to use temporarily at a county or city shelter; (e) consider allowing customers to defer or phase payment for coverage charges for data, talk, and text for defined periods time; (f) consider extending payment dates for service for defined periods of time for impacted customers; (e) to consider providing temporary replacement phones for customers whose phones were lost or damaged as a result of a disaster or evacuation. The relief measures create a floor of customer

protections beyond which the category 2A wireless providers may offer additional relief measures, including those tailored to specific customers' needs.

5. Non-facilities based wireless providers, wireless resellers and mobile virtual network operators that provide access to E9-1-1 and/or LifeLine services shall provide the following mandated protections to their customers who are in a disaster affected area under a covered emergency declaration by the governor of California or president of the United States: (a) provide mobile phones for customers seeking shelter from a disaster to use temporarily at a county or city designated shelter; (b) consider allowing customers to defer or phase payment for coverage charges for data, talk, and text for defined periods of time; and (c) consider extending payment dates for service for defined periods of time for impacted customers; and to consider providing temporary replacement phones for customers whose phones were lost or damaged as a result of a disaster or evacuation. The relief measures create a floor of customer protections beyond which the category 2B wireless providers may offer additional relief measures, including those tailored to specific customers' needs.

6. Nothing in this proceeding is intended to conflict with, change, or supersede the outcomes of Rulemaking 18-12-005 where we adopted de-energization (public safety power shut off) guidelines.

7. Landline and wireless providers, as identified in Ordering Paragraph 1, shall file a Tier 1 Advice Letter at the default, 12-month conclusion of customer protection period, or as reasonably determined by the Governor's Office of Emergency Services, detailing the mandated protections offered to the customer affected by the disaster, the start and end periods customers received the emergency customer protections, the outreach efforts conducted, the customer impacts, and basic metrics – that can be measured or estimated– such as the

number of consumers that received each of the available protections over the course of the year. All Tier 1 Advice Letters, in compliance with this Decision, shall be filed on the service list of this rulemaking to ensure that all interested parties have the opportunity, through timely and efficient means, to receive notice and review these filings.

8. Landline and wireless providers, as identified in Ordering Paragraph 1, shall file a Tier 1 Advice Letter 60 days from the effective date of this decision, setting forth a plan for customer outreach of these protections in English, Spanish, Chinese (including Cantonese and Mandarin), Tagalog, and Vietnamese, as well as Korean and Russian where those languages are prevalent within the landline and wireless service providers' (as identified in Ordering Paragraph 1) service territories. The customer outreach shall also be communicated in accessible formats for customers with disabilities impacting their ability to use standard forms of communication.

9. Landline providers, as identified in Ordering Paragraph 1, shall work collaboratively with Commission staff and our sister government agencies on measures to instill greater awareness of 2-1-1 services.

10. Landline and wireless service providers, as identified in Ordering Paragraph 1, shall begin conducting outreach to their customers about these protections upon the effective date of this decision.

11. Rulemaking 18-03-011 remains open.

This order is effective today.

Dated August 15, 2019, at San Francisco, California.

MICHAEL PICKER

President

LIANE M. RANDOLPH

MARTHA GUZMAN ACEVES

CLIFFORD RECHTSCHAFFEN

GENEVIEVE SHIROMA

Commissioners